



STATE OF NEW JERSEY
Board of Public Utilities
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OFFICE OF CLEAN ENERGY

IN THE MATTER OF THE NEW JERSEY CLEAN) ORDER
ENERGY PROGRAM – FISCAL AGENT)
) DOCKET NO. EO02120955

(SERVICE LIST ATTACHED)

BY THE BOARD:

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq., (EDECA or Act) was signed into law. The Act established requirements to advance energy efficiency and renewable energy in New Jersey through the societal benefits charge (SBC) at N.J.S.A. 48:3-60a(3).

In its January 22, 2003, Order, Docket No. EX99050347 et al. (January 22, 2003 Order), the Board¹ established the New Jersey Clean Energy Council, as advisors to the Board for planning assistance for the administration of the programs. As set forth in the January 22, 2003, Order, the Clean Energy Council is responsible for working with Board Staff to make recommendations and assessments of the components of the New Jersey Clean Energy Program, programmatic effectiveness, the goals and objectives on a program-by-program basis, incentives levels, program delivery, consumer satisfaction, and administrative efficiency. Further, the January 22, 2003 Order authorized that a feasibility study on the issue of establishing a trust fund for the New Jersey Clean Energy Program funding be prepared and presented to the Board for its consideration by December 31, 2003.

In its March 4, 2003 Order, Docket No. EO02120955, (March 4, 2003 Order) the Board, directed the New Jersey Clean Energy Council to make a recommendation on the final administrative structure of the New Jersey Clean Energy Program by July 1, 2003. The March 4, 2003 Order recognized the interrelationship and connection between administration and the trust fund. The Board further directed that any future reorganization should recognize the distinction between administration/implementation and planning/design. In the interim, the Utilities were to continue to perform day-to-day program implementation, subject to Board Staff oversight going forward and work with the Office of Clean Energy to develop an orderly transition.

¹ Commissioner Hughes abstained on the vote to create the New Jersey Clean Energy Council at the December 18, 2002 Agenda meeting in Docket No. EX99050347 et al.

In its September 11, 2003 Order, Docket No. EO02120955, (September 11, 2003 Order) the Board, adopted the recommendations of the Clean Energy Council from their Report on the Recommendations for Administration and Fund Management for the New Jersey Clean Energy Program, dated July 21, 2003 and directed the Board Staff of the Office of Clean Energy to assume the role of administrator of the Clean Energy Program after an adequate transition period to be developed and implemented in conjunction with the Utilities. The Board further authorized the Office to contract for and with program managers and implementers to manage and implement the 2004 New Jersey Clean Energy program and also for any necessary administrative duties.

Further, in the September 11, 2003 Order the Board adopted the recommendations in Council's Report to pursue the designation of a fiscal agent to hold funds received by the utilities intended to support the Clean Energy Program. The recommendation was that the funds transferred to the fiscal agent are not intended to become state funds, but rather funds only subject to disbursement as directed by the BPU Office of Clean Energy consistent with policies and procedures articulated in the Clean Energy Program. The Board authorized "the Office of Clean Energy to contract for the services of a fiscal agent to manage the Clean Energy Program funds and disburse them at the direction of the Office of Clean Energy, as authorized by the Board." September 11, 2003 Order. This mechanism was to replace the current structure in which utilities collect, hold and disburse funds. However the utilities will continue to collect these funds from ratepayers through the societal benefits charge.

Discussion and Findings

Provisions were established in the Act to promote and advance energy efficiency and renewable energy development in New Jersey. The New Jersey Clean Energy Council recognized the need to develop and implement additional programs and provisions to advance energy efficiency and renewable energy if the goals and objectives of the Act and the goals and objectives of the Clean Energy Program, developed by the Council, are to be achieved.

The Office of Clean Energy has held several meetings with Atlantic City Electric Company d/b/a Conectiv Power Delivery, Jersey Central Power & Light Company d/b/a GPU Energy, New Jersey Natural Gas Company, NUI Elizabethtown Gas Company, Public Service Electric and Gas Company, Rockland Electric Company, and South Jersey Gas Company (collectively referred to as the Utilities) as part of a fiscal agent – transition team, to develop the elements needed in a fiscal agent to meet the recommendations of the Council and the direction of the Board.

Based on the meetings and discussions it was determined that a fiscal agent (a banking institution with a strong trust background) would meet the recommendations of the Council and the directions of the Board for the fiscal agent. The Office developed the attached Request for Service based on those meetings and discussions.

The attached Request for Service was sent to the following banks on November 21, 2003 with a return date of December 3, 2003:

1. PNC Bank;
2. Wachovia Bank;
3. Fleet Bank; and
4. Bank of New York

The banks were selected based on discussion with board staff in Financial Audits and the Utilities because of their strong trust backgrounds. PNC and Fleet respectfully declined to participate and did not submit a proposal. The Bank of New York did not have sufficient time to develop and submit a proposal. Wachovia submitted a proposal, which charged a one-time application fee of \$2,500 and an annual fee of \$12,500, which will allow for 100 monthly transactions. For additional monthly transactions, Wachovia will charge \$5.00 per check and \$10.00 per wire. Based on the above, the Office of Clean Energy shall contract with Wachovia Bank, National Association – Corporate Trust to act as the fiscal agent to manage the Clean Energy Program funds and disperse said funds at the direction of the Office of Clean Energy, as directed by the Board.

It is the Board's intent that once the fiscal agent is established, the utilities will deposit with the fiscal agent the amounts set forth below on a monthly basis. Once the utilities deposit the funds with the fiscal agent, they will no longer control the funds or have any further responsibility for the use of the funds. The fiscal agent will disburse the funds to cover Clean Energy Program costs as directed by the Office of Clean Energy.

Each utility will be required to deposit with the fiscal agent an amount equal to their share of the 2004 Clean Energy Program funding level established by the Board. Each utility will also be required to deposit with the fiscal agent any carryover of unexpended funds from the 2001 through 2003 funding requirement. Carryover is defined as the difference between the required three year funding level set for each utility in the Board's March 9, 2001 CRA Order (Docket Nos. EX01070447, EO99050348, EO99050349, EO99050350, EO99050351, GO099050352, GO099050353 and GO099050354) less actual Clean Energy Program expenditures through the end of 2003.

The Board, in its Order Docket No. EO02120955 for the November 11, 2003 Board Agenda meeting, established a statewide interim 2004 Clean Energy Program funding level of \$124.126 million. The Board set the interim 2004 funding requirement for each utility by continuing the 2003 funding level and allocation to each utility as set out in the Board's March 9, 2001 Order. Table 1 below summarizes the 2004 interim funding level for each utility established by the Board:

Table 1
Interim 2004 Funding Level

Utility	Interim 2004 Funding Level (\$1000)
Conectiv	11,435
JCP&L	34,939
PSE&G-Electric	43,385
RECO	534
New Jersey Natural Gas	4,217
NUI-Elizabethtown Gas	4,217
PSE&G-Gas	21,889
South Jersey Gas	3,510
Total	124,126

The utilities proposed that the schedule for monthly payments into the fund be developed in a manner that tracks utility sales. That is, utilities would pay higher amounts into the fund in a month that typically has higher sales and a lower amount in a month that typically has lower sales. The Office of Clean Energy wanted to ensure that the schedule of payments would result in sufficient funds being available to cover expected monthly payments.

A preliminary analysis performed by the utilities and the Office of Clean Energy indicates that the following schedule of monthly payments into the fund by the utilities, combined with the payments into the fund of 2001-2003 carryover as discussed below, should result in sufficient funds being on hand to pay expected expenses in each month. Based on the above, the Office of Clean Energy recommends that the following monthly payment schedule be adopted for the interim 2004 funding level set by the Board:

Table 2: Monthly Payment schedule
(\$1000)

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
Conectiv	951	818	828	843	825	895	1,168	1,266	1,143	914	828	958	11,435
JCP&L	2,930	2,639	2,546	2,474	2,463	2,872	3,576	3,733	3,464	2,703	2,712	2,826	34,939
PSE&G-E	3,429	3,095	3,284	3,262	3,267	3,820	4,611	4,536	3,803	3,460	3,327	3,491	43,385
RECO	42	36	39	38	39	51	60	58	44	41	39	46	534
NJNG	642	561	522	298	209	136	120	115	123	272	485	735	4,217
NUI	514	472	436	363	284	248	218	303	236	254	381	508	4,217
PSE&G-G	3,131	2,867	2,548	1,584	1,314	800	764	762	773	1,652	2,308	3,386	21,889
SJG	428	413	374	249	195	188	172	203	161	268	335	523	3,510
Total	12,156	10,982	10,631	9,055	8,564	8,916	10,618	10,819	9,660	9,627	10,478	12,618	124,126

The Board believes that the payment schedule recommended by the Office of Clean Energy set out above fairly balances the utilities desire to match payments with collections and the Board's desire to insure sufficient funds are on hand to pay expected disbursements. Therefore, the Board ORDERS the utilities to deposit with the fiscal agent, by the last day of each month, the amount set forth in Table 2 above.

The Board desires to minimize the need for the fiscal agent to borrow funds if the balance in the fund is less than the amount needed to pay invoices in any given month. Therefore, the Board authorizes the Office of Clean Energy to reasonably modify the schedule set out above if needed to manage the cash flow requirements of the Fiscal Agent.

The utilities have provided the Clean Energy Council and the Office of Clean Energy with forecasts of unexpended funds that will be carried over from 2003 and available for 2004 program funding. Once actual 2003 expenditures are known, the utilities will calculate the actual carryover that will be paid to the Fiscal Agent.

The utilities have forecasted the carryover to be equal to approximately \$67.356 million. Based on discussions with the utilities, the Office of Clean Energy recommended to the Board that one-sixth of the estimated carryover be deposited by January 10, 2004. One sixth of each utilities estimated carryover is set out in Table 3 below;

Table 3
Carryover Amount Due in January 2004

Utility	January 2004 Carryover Payment to Fiscal Agent (\$1000)
Conectiv	189
JCP&L	2,796
PSE&G-Electric	2,985
RECO	11
New Jersey Natural Gas	283
NUI-Elizabethtown Gas	249
PSE&G-Gas	4,610
South Jersey Gas	103

Once the final carryover is calculated, each utility will subtract the carryover paid in January 2004 from its final carryover amount. One fifth of the final carryover amount less the January carryover payment will be deposited by each utility by the 10th day of the month commencing in February 2004 and ending in June 2004.

Based on the above, the Board ORDERS each utility to deposit with the Fiscal Agent any carryover pursuant to the schedule set out above for the January payment and the formula set out above for subsequent payments.

The payment schedules set out above assume that the fiscal agent commences operation in January 2004. Should the date the fiscal agent becomes operational be delayed beyond the end of January 2004, a revised payment schedule would need to be developed. Therefore, the Board AUTHORIZES the Office of Clean Energy to develop a reasonable modified payment schedule should the date the fiscal agent becomes operational be delayed beyond the end of January 2004.

Payments made by the utilities to the fiscal agent as required by this Order are fully recoverable by the utilities and are not subject to further prudence reviews. The utilities shall be entitled to fully and timely recover such payments through the Societal Benefits Charge and shall be afforded deferred accounting with interest for any differences between the collection of funds and payments to the fiscal agent. Deferred accounting and interest will be consistent with existing Board policy related to the recovery of Clean Energy Program costs and will continue to apply to Clean Energy program costs incurred by the utilities. Utilities will utilize existing ratemaking mechanisms to recover these costs.

Utilities currently collect Clean Energy Program costs in rates and utilize these funds to pay for any Clean Energy Program costs they incur. Upon the establishment of the Fiscal Agent the method for utilities to recover Clean Energy Program costs will be modified.

DATED: 12/23/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)

KRISTI IZZO
SECRETARY